



July 28, 2005

Jim Lennon  
Connelly Bove Lodge & Hutz LLP  
The Nemours Building  
1007 North Orange Street  
Wilmington, DE 19808

Re: Electronic Discovery Services Agreement for Radianse & Versus Technologies

Dear Jim:

In reference to our conversation last week, this side letter should serve to clarify the opinions set forth by Iron Mountain as it relates to your email (to me) dated July 21, 2005. In response to that email, I did solicit the response of Denny Kolb, our software engineer, who responded to your note. I have attached a copy of the thread here. Based on what we know about the case, there's plenty of justification that Notepad alone is not sufficient to support the discovery process.

In your initial email to me, you indicate that performing discovery on the deposit materials would entail recompiling object code to detect any missing files. We would agree with this approach. Additionally, without the necessary build files it is virtually impossible to recreate the application development environment. We also agree that a proper review/analysis of the code requires suitable text-analysis utilities, many of which can be downloaded from the Internet for free (i.e. Sourceforge, VIM).

It is our opinion that without performing a build test on the deposit materials to detect any missing files and without the proper utilities to help speed up the process, it is virtually impossible to adequately perform discovery in the time schedules contracted under our agreement. If there is a desire to have Iron Mountain supply these utilities and/or perform the build tests on behalf of the parties, we would be happy to provide a Statement of Work to you. Please let me know if this is the desired course of action.

Sincerely,

A handwritten signature in black ink that reads "Frank Bruno".

Frank A. Bruno  
Regional Sales Manager  
678-849-8394 cell  
[frank.bruno@ironmountain.com](mailto:frank.bruno@ironmountain.com)

**Harris, Maryalice**

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**From:** Bruno, Frank  
**Sent:** Thursday, July 28, 2005 12:20 PM  
**To:** Harris, Maryalice  
**Cc:** James M. Lennon  
**Subject:** FW: Statement from Iron Mountain re: appropriate tools for code analysis

Maryalice: Can you print off a copy of this email thread and attached letter. Sign the letter on my behalf and attach the email thread to the letter. Then fax and mail the package with one of my business cards to Jim Lennon. He is the addressee on the letter and his fax number is noted below. Thanks...Frank

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**From:** James M. Lennon [mailto:[JLennon@cblh.com](mailto:JLennon@cblh.com)]  
**Sent:** Wednesday, July 27, 2005 8:10 AM  
**To:** Bruno, Frank  
**Subject:** RE: Statement from Iron Mountain re: appropriate tools for code analysis

Thanks, Frank.

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**From:** Bruno, Frank [mailto:[FBruno@ironmountain.com](mailto:FBruno@ironmountain.com)]  
**Sent:** Wednesday, July 27, 2005 7:47 AM  
**To:** James M. Lennon  
**Subject:** FW: Statement from Iron Mountain re: appropriate tools for code analysis

Jim: Attached below are Denny's comments regarding the situation with Radianse. I will insert this into a formal letter to your attention. Please look for this in the next 24 hours. Thanks...Frank

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**From:** Denny Kolb [mailto:[dkolb@san.rr.com](mailto:dkolb@san.rr.com)]  
**Sent:** Tuesday, July 26, 2005 2:38 AM  
**To:** Kolb, Denny C.; Bruno, Frank; Ryan, Shane  
**Subject:** RE: Statement from Iron Mountain re: appropriate tools for code analysis

Frank,

My comments in-line to Mr. Lennon's original message. Hope this helps. Let me know if you have any additional questions.

Regards,  
Denny

-----Original Message-----

**From:** Kolb, Denny C. [mailto:[denny.kolb@ironmountain.com](mailto:denny.kolb@ironmountain.com)]  
**Sent:** Monday, July 25, 2005 11:07 AM  
**To:** Bruno, Frank; Ryan, Shane  
**Cc:** 'dkolb@san.rr.com'  
**Subject:** RE: Statement from Iron Mountain re: appropriate tools for code analysis

Frank,

I'll want to give this some thought and I'll have something for you tomorrow, but based on a quick read I think there's plenty of justification that Notepad alone is not sufficient to support the discovery process. I'm

## Message

Page 2 of 5

not directly familiar with the "unxtools", but it sounds like it provides at least some of the functionality of the "Cygwin" tools that I prefer because they provide a more Unix-like environment on the PC while still running Windows.

-dk-

-----Original Message-----

**From:** Bruno, Frank  
**Sent:** Monday, July 25, 2005 9:21 AM  
**To:** Ryan, Shane; Kolb, Denny C.  
**Subject:** FW: Statement from Iron Mountain re: appropriate tools for code analysis

Shane/Denny: Below is a lengthy note from an attorney that I am working with. Currently, there are two parties enjoined in litigation. Versus Technology is the plaintiff and Radianse is the defendant. A Protective Order was issued by the courts requiring the evidence (source code) to be placed in protective custody during the proceedings for purposes of electronic discovery. As you read below, you can see what Versus would like from us. Radianse appears to be doing everything in their power to hamstring Versus' efforts to perform their discovery. They have even epoxied every orifice on the machine housing the code making it impossible to import the tools necessary to complete their work. Please let me know if it is possible to provide them with our professional opinions.

Thanks...Frank

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**From:** James M. Lennon [mailto:[JLennon@cblh.com](mailto:JLennon@cblh.com)]  
**Sent:** Thursday, July 21, 2005 5:30 PM  
**To:** Bruno, Frank  
**Cc:** George Pazuniak  
**Subject:** Statement from Iron Mountain re: appropriate tools for code analysis

Dear Frank,

As we discussed, we are interested in getting a simple statement or opinion from one of Iron Mountain's experienced software engineers about the tools necessary to perform a proper analysis of source code, to support the reasonableness of our request and the unreasonableness of Radianse's refusal.

Here is what we know about code Iron Mountain is holding in escrow:

- 1) There are 1200 code files on the laptop;
- 2) Over 600 of those files appear to relate to the latest system release;
- 3) The laptop contains no text-viewing capabilities other than Windows Notepad;
- 4) The laptop does not contain the compilers and assemblers necessary to build the badge and receiver software. (Rebuilding an application is the most reliable way to detect missing files.);
- 5) The laptop does not contain the build files (called 'makefiles') for the badge and receiver applications;
- 6) The laptop contains a Java compiler but does not appear to have the "Apache Ant" build

utility or any other application necessary to build the code for the network applications; Is it known for a fact that "Apache Ant" is the correct build tool? If that is the case, the build files would be named some variation on "build.xml" rather than Makefile.

7) The laptop does not contain any of the help files commonly loaded with the Java development environment. [These can be easily obtained from <http://java.sun.com> ]

I'm told that without the applications to build the code, we have no ability to confirm that all the code necessary to run the system has been put on the laptop. This is true. Even a single missing file if not available from some third source would be enough to prevent compilation of many or all of the JAVA files in the deposit. The overall effect would depend upon exactly which of the 'JAVA' source code files were dependent upon the missing file, however, it is presumed that the failure of even a single "\*.java" file to compile would be sufficient to prevent the deployment of the escrowed code.

I further understand that a proper review/analysis of the code requires suitable text-analysis utilities (such as "unxutils") and a good text editor (such as "Vim"). I understand these applications can be downloaded from the internet for free.

unxutilx is available from sourceforge (<http://unxutils.sourceforge.net/>) and vim from [www.vim.org](http://www.vim.org)

I'm told that with these tools numerous source code files can be searched at once, while with Notepad the code can only be searched one file at a time. True with the grep utility in unxutils, one can search a set of files for a specific string or regular expression making identification of keywords and phrases within these files trivially easy.

I also understand that these tools provide far more complex search capability, such as pattern matching and Boolean searching, [Yes, see grep and regular expressions above] that is not possible with Notepad [ correct]. The tools can apparently also provide the line numbers customary for referencing specific parts of the code and to reference line numbers in a proper code analysis with Notepad requires the reviewer to manually count what could be thousands of lines of code. [Yes, one of the command line parameters for grep is to include the line number on which a pattern match was found, while Vim displays the current line number at all times on its display window. Notepad has no such capability.]

Given this information, can you have one of your experienced software engineers attest to the fact that a software engineer would expect tools such as those mentioned above (unxutils and Vim) to perform a proper review and analysis of the code and that to require such analysis be done with Notepad alone would be far more difficult, time-consuming, and potentially error-prone than if done with the standard and appropriate tools as mention?

For examining any but the simplest programs, the Notepad utility in Windows would be wholly inadequate for any robust and detailed review of the source code and for enabling comparisons between various files within the deposit. At a minimum, some suite of analysis tools would be required, either the UnxUtils referenced above or the similar Unix-like environment Cygwin would be a good start. If compilation is desired, (and presuming that the code is all JAVA based), there are some opensource JAVA IDE's ([www.eclipse.org](http://www.eclipse.org), for example) that would help in the analysis/rebuild process.

In addition, can you have this person attest to the fact that the proper build utilities are necessary to build the code in order to determine whether all the code necessary to run the system has been put on the laptop. As noted above, as even a single missing source file can completely invalidate a build, it is critical to establish that a complete application can indeed be built

from the source code and in order to accomplish this, a complete listing of the required compilers and any necessary third party applications, tools, API's that are required as a dependency on a missing third party tool is just as catastrophic to the build process as a missing source file from the main body of the code.

Of course any comment regarding his/her understanding of the standard or typical practice in reviewing code, particular in an adversarial context, is also much appreciate.

Without knowing the nature of the litigation, I don't know that I'm in a position to comment on the "adversarial" context. That might be better handled in a phone conversation.

Sincerely,

Jim Lennon

Connolly Bove Lodge & Hutz LLP  
The Nemours Building  
1007 North Orange Street  
P.O. Box 2207  
Direct Dial: (302) 252-4218  
Fax: (302) 255-4307

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